United Nations A/68/158

General Assembly

Distr.: General
18 July 2013

Original: English

Sixty-eighth session
Item 145 of the preliminary list*
Administration of justice at the United Nations

Activities of the Office of the United Nations Ombudsman and Mediation Services

Report of the Secretary-General

Summary

The General Assembly, in its resolution 67/241, reaffirmed that the informal resolution of conflict was a crucial element of the system of administration of justice. The Assembly emphasized that all possible use should be made of the informal system in developing a culture of dialogue and amicable resolution of disputes.

The present report is the fifth covering the activities of the Office of the United Nations Ombudsman and Mediation Services, which delivers workplace informal conflict resolution services to the Secretariat; funds and programmes (United Nations Children's Fund, United Nations Development Programme, United Nations Population Fund, United Nations Office for Project Services and United Nations Entity for Gender Equality and the Empowerment of Women); and the Office of the United Nations High Commissioner for Refugees (UNHCR).

The report contains information on the activities carried out by the Office in cross-cutting areas during the period from 1 January to 31 December 2012. It focuses on Secretariat-specific activities, including dispute resolution services offered to staff; initiatives to promote competence in conflict management and other outreach activities; and recommendations on systemic observations. Detailed information on the specific activities undertaken for the funds and programmes, and UNHCR is provided in separate annual reports.

* A/68/50.

13-39905 (E) 130813

Please recycle

The Office appreciates the continued support of the General Assembly for the use of informal conflict resolution as a key first step in addressing workplace disputes. The Office also acknowledges the backing given by the Assembly to the system-wide implementation of measures aimed at encouraging recourse to informal conflict resolution and at empowering the Organization to effectively address conflict.

Contents

		Page
I.	Informal conflict resolution	3
	A. Workplace conflict and its impact	3
	B. Mandate and areas of work	3
	C. Core principles of practice	4
II.	Overview of the Office of the United Nations Ombudsman and Mediation Services	4
	A. Organization of the Office	4
	B. Joint activities	5
	C. Scope of coverage	5
III.	Informal conflict resolution: overview of cases and trends	6
	A. Ombudsman cases	6
	B. Mediation cases	9
	C. Regional engagement	10
IV.	Outreach activities: building partnerships for conflict competence and conflict prevention	11
	A. Enhancing conflict competence	11
	B. Outreach efforts to raise awareness about informal conflict resolution	12
	C. Partnerships and stakeholder engagement	13
V.	Root causes of conflict: systemic issues	15
	A. Identification of issues and reporting	15
	B. Selected cross-cutting issues	15
VI.	Incentives for the informal resolution of conflict	20
	A. Value of informal conflict resolution	20
	B. Update on incentives to promote informal conflict resolution	20
VII.	The way forward	22

I. Informal conflict resolution

A. Workplace conflict and its impact

1. Conflict is an integral dynamic in organizations and can result from internal and external factors. Conflict is not inherently bad, and disagreements are often essential for participatory governance. However, unmanaged and ill-managed conflict has a negative impact on an organization, its workforce and the constituencies it serves. It poses risks that can threaten the ability of an organization to achieve its strategic objectives.

2. Resolving conflict by using collaborative, conciliatory and pre-emptive approaches can help in the construction of shared realities and in adapting to changing circumstances. In addition, it can help to minimize the negative impact of conflict and mitigate associated risks.

B. Mandate and areas of work

3. As the designated informal conflict resolution system within the Organization, the Office of the United Nations Ombudsman and Mediation Services is mandated to offer dispute resolution services to visitors; promote competence in conflict management (hereafter, referred to as "conflict competence"); and make recommendations based on systemic observations. The essential elements of those services are summarized below.

4. The Office offers dispute resolution services through the ombudsman practice and mediation by using interest-based approaches to conflict resolution and involving methods such as facilitation, problem solving, shuttle diplomacy and conflict coaching. The services are provided on a case-by-case basis for individuals and groups of individuals, offering both direct and in-person methods when possible, as well as remote access by telephone, videoconference and Skype.

5. Conflict competence encompasses the knowledge, skills and attitude that enable an organization to engage in conflict situations constructively. On an individual level, it involves developing cognitive, emotional and behavioural skills that engender trust and communication; in team settings, it involves creating a climate that builds trust and promotes collaboration; and in an organizational context, it involves aligning missions, policies and performance standards to reinforce the importance of informal conflict resolution. The Office promotes conflict competence through the design and dissemination of relevant thematic material, using both in-person and remote channels. Outreach initiatives of the Office are aimed at promoting informal conflict resolution and at raising awareness about the availability of the informal forum.

6. In accordance with General Assembly resolution 64/233, the role of the Ombudsman is to report on broad systemic issues that he or she identifies, as well as issues that are brought to his or her attention, in order to promote greater harmony in the workplace. The Office identifies such broad-based systemic issues on an ongoing basis; shares them collaboratively with key stakeholders and partners within the Organization; and makes recommendations based on the observations.

C. Core principles of practice

7. In the pursuit of its mandate and scope of work, the Office is guided by the core principles of independence, neutrality, confidentiality and informality, which are aligned with internationally established standards of practice for the organizational ombudsman profession.

Independence

8. The Office maintains independence from other organizational entities, organs or officials and has direct access to the Secretary-General, the executive heads of the funds and programmes, the Office of the United Nations High Commissioner for Refugees and senior management throughout the Organization, as needed; access to information relevant to cases, except medical records; and access to individuals in the Organization who request advice, information or an opinion on any particular matter.

Neutrality

9. The Office serves as an advocate for justice and fair, equitably administered processes, not on behalf of any individual within the Organization, taking into account the rights and obligations of the Organization and the staff member, and the equity of the situation.

Confidentiality

10. The Office maintains strict confidentiality and does not disclose any information about individual cases or visits from staff members; it cannot be compelled by any United Nations organ or official to testify.

Informality

11. In respect of its informality, the Office does not keep records for the United Nations or any other party; does not conduct formal investigations or accept legal notice on behalf of the United Nations; does not having decision-making powers; and does not make determinative findings or judgements.

II. Overview of the Office of the United Nations Ombudsman and Mediation Services

A. Organization of the Office

12. The Office of the United Nations Ombudsman and Mediation Services comprises three pillars that serve their respective constituencies: the Secretariat;[1] the funds and programmes (United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), United Nations Children's Fund (UNICEF), United Nations Office for Project Services (UNOPS) and United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)); and the Office of the United Nations High Commissioner for Refugees (UNHCR). The constituencies

[1] The pillar serving the Secretariat is hereafter referred to as the "Office of the Ombudsman" or the "Office".

are served by dedicated pillars as established and administered by the respective entities. Constituencies served include Headquarters, offices away from Headquarters, field locations and special political missions.

13. The General Assembly, by its resolution 62/228, established regional offices and a mediation division in order to improve services and access to staff globally. The regional offices are located in Bangkok, Entebbe, Uganda (the office had previously been located in Khartoum), Geneva, Kinshasa, Nairobi, Santiago and Vienna.

B. Joint activities

14. During the reporting period, ongoing collaborative activities by the three pillars of the Office included consistent and regular sharing of best practices and challenges related to case content and case handling; maintenance of a common data platform; and development of a joint educational and outreach brochure.

C. Scope of coverage

15. The Office serves staff globally, including at Headquarters and in the field. The stressful environment for field staff often contributes to the emergence of urgent and highly sensitive issues. Rapid response to critical cases is provided by regional ombudsmen and a roster of on-call mediators and ombudsmen. The ombudsmen for the funds and programmes provide services to their global constituencies from New York, and the ombudsman for UNHCR does so from Geneva.

16. The scope of the work of the Office is reflected not only in the source or number of cases received but also in their complexity. The Office serves Secretariat staff globally. Non-staff personnel do not have access to informal dispute resolution through the Office. However, the Office continues to be contacted by non-staff personnel, including individual contractors and consultants, seeking redress and recourse to informal dispute resolution. On an exceptional basis, and when feasible within existing resources, limited services have been provided by the Office. Cases involving United Nations Volunteers are also handled on an exceptional basis as and when they concern peacekeeping missions and Secretariat staff members. Ombudsmen for the funds and programmes provide services to all contract holders and on a limited basis to United Nations Volunteers, depending on where they are the latter are assigned.

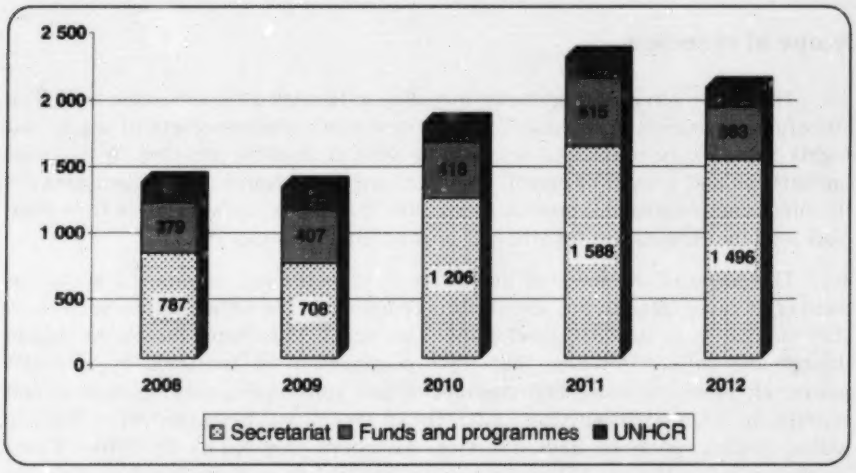
17. As reported by the Secretary-General in annex V of his report on the administration of justice at the United Nations (A/67/265 and Corr.1), the Office considers it important to provide access to informal resolution to all United Nations personnel, regardless of category, owing to the potential impact of such conflict on United Nations staff and organizational productivity. Permitting non-staff personnel of the Secretariat to access the informal system would require additional resources and an amendment to the terms of reference of the Office.

III. Informal conflict resolution: overview of cases and trends

A. Ombudsman cases

18. During the reporting period, the Office opened a total of 2,039 cases, of which 1,496 originated from the Secretariat, 383 from the funds and programmes (UNDP, UNICEF, UNFPA, UNOPS, UN-Women), and 160 from UNHCR (see figure I). A case constitutes at least one workplace issue brought to the Office by a United Nations staff member seeking informal conflict resolution or other assistance. General and simple inquiries received from visitors do not constitute cases, although the Office helps all visitors and redirects them appropriately.

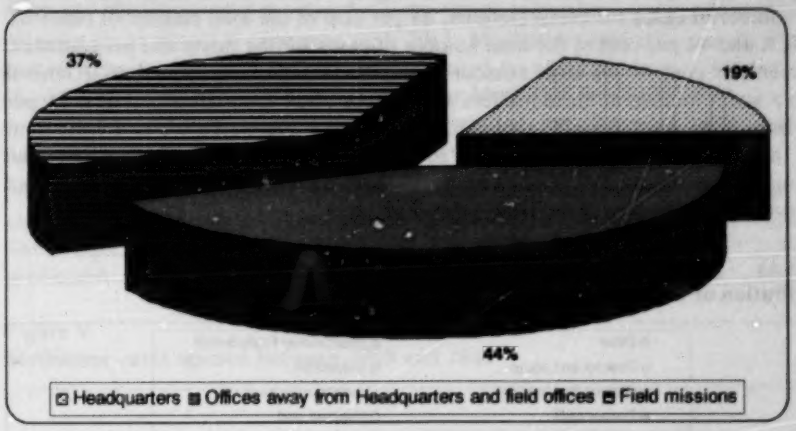
Figure I
Cases opened by the Office of the United Nations Ombudsman and Mediation Services



19. Since the redesign and establishment of the new system of administration of justice in 2009, the total number of cases handled by the Office increased from 1,287 in 2009 to 2,039 in 2012, representing an increase of 58 per cent. The five-year period from 2008 to 2012 saw an average annual growth rate of 9 per cent. During that period, there was a sharp increase in volume in some years and a marginal decline in others. The complexity of factors involved in conflict situations makes it difficult to discern or forecast trends in the volume of cases.

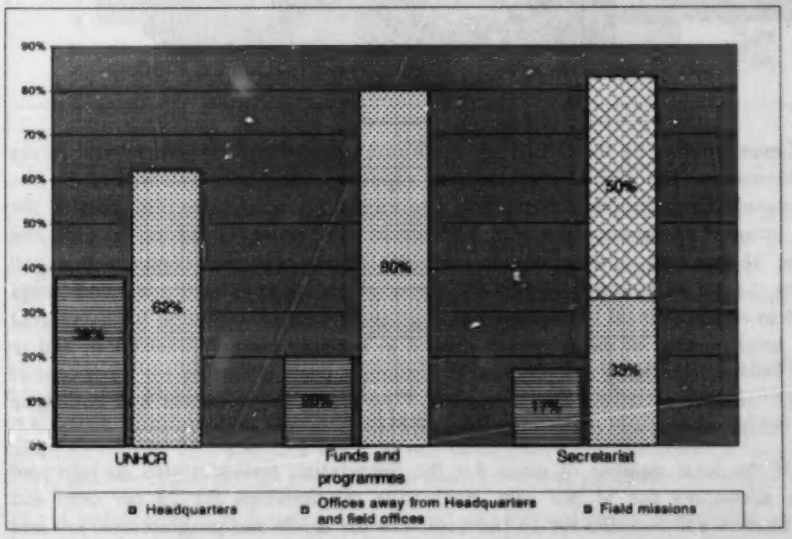
20. In 2012, 44 per cent of the total number of cases handled by the Office emanated from offices away from Headquarters, country offices and field offices; 37 per cent from field missions (specific only to the Secretariat); and 19 per cent from Headquarters (see figure II).

Figure II
Distribution of cases by location for the Office of the United Nations Ombudsman and Mediation Services, 2012



21. The distribution of cases emanating from Headquarters, from offices away from Headquarters and field offices, and from field missions for each of the three pillars is reflected in figure III. The figures indicate where the cases emanated from, and not where the cases were opened or serviced.

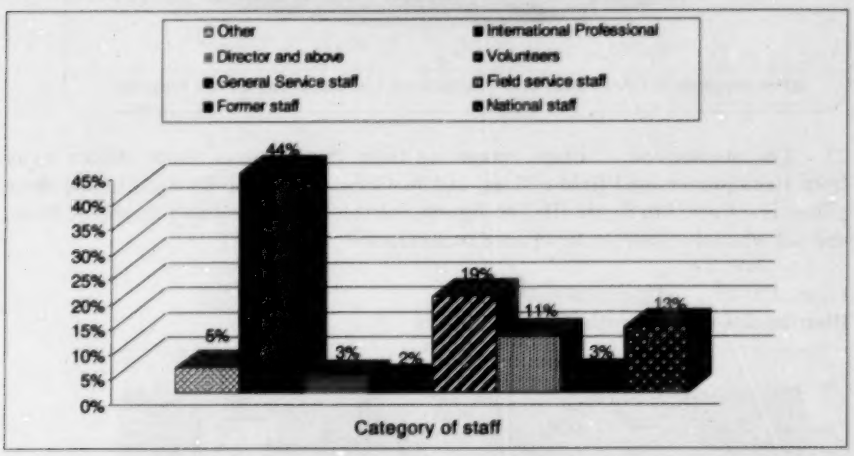
Figure III
Distribution of cases with the three pillars



Note: Headquarters include New York for the Secretariat, New York and Copenhagen for the funds and programmes, and Geneva and Budapest for UNHCR; offices away from Headquarters and field offices include various country and field offices for the Secretariat, funds and programmes and UNHCR; and field missions refer to the Secretariat alone and include peacekeeping and special political missions.

22. As illustrated in figure IV, 44 per cent of the total number of cases for the Office during the reporting period came from staff in the international Professional category. More specifically, staff in that category accounted for 44 per cent of the total number of cases for the Secretariat, 61 per cent of the total number of cases for UNHCR and 44 per cent of the total number of cases for the funds and programmes. Nineteen per cent of the total number of cases came from support staff (General Service staff) located at Headquarters and offices away from Headquarters; 11 per cent from field service staff (applicable only to the Secretariat); and 13 per cent from national staff (including staff in the Professional and General Service categories) (see figure IV). The category "Other" includes non-staff personnel and accounted for 5 per cent of the total number of cases.

Figure IV
Distribution of cases by occupational group



23. Cases handled by the Office are often multifaceted and involve several issues and sub-issues. The Office uses uniform reporting categories established by the International Ombudsman Association. The categories accounting for most of the issues brought to the attention of the Office in 2012 were related to: (a) jobs and careers, 31 per cent; evaluative relationships, 23 per cent; and compensation and benefits, 13 per cent. Legal, regulatory, financial and compliance issues, and issues related to organizational leadership and management each accounted for 8 per cent of the total number of cases. Issues related to services and administration, and to safety, health, well-being and physical environment each accounted for 5 per cent of the total number of cases. The remaining 7 per cent involved peer and colleague relationships, values and ethics, and other matters.

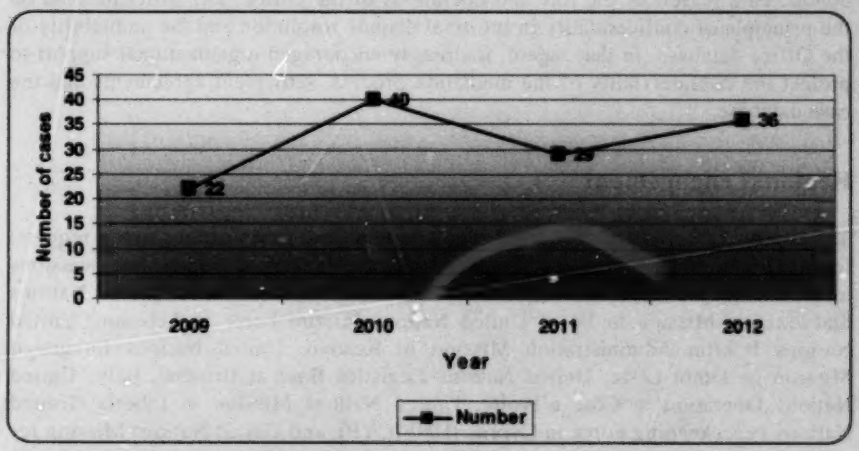
24. Of the total number of cases for the Secretariat, issues related to jobs and careers accounted for 31 per cent, evaluative relationships for 23 per cent and compensation and benefits for 14 per cent. For the funds and programmes, job and career issues accounted for 34 per cent, evaluative relationships for 20 per cent, and compensation and benefits for 12 per cent. For UNHCR, job and career issues accounted for 26 per cent, evaluative relationships for 24 per cent, and compensation and benefits for 9 per cent.

B. Mediation cases

25. In 2012, the Mediation Service opened 36 cases, including 30 cases emanating from the Secretariat and 6 cases from the funds and programmes, representing an increase of 24 per cent compared with 2011. Mediation techniques are an intrinsic part of dispute resolution and are regularly used by ombudsmen in resolving cases. In addition to the 36 cases opened through the Mediation Service in 2012, the Office continued to mediate cases informally as part of its case work. The cases are included in the total statistics indicated in paragraph 20 of the present report.

26. Since its establishment in 2009, the Mediation Service has seen an average annualized growth rate of 13 per cent in the number of cases opened (see figure V). The complexity of factors involved in conflict situations makes it difficult to discern predictable trends or attribute specific causes to changes in the volume of cases.

Figure V
Mediation cases opened between 2009 and 2012



27. Of the total number of cases mediated in 2012, 42 per cent were self referrals; 27 per cent were referred by the United Nations Dispute Tribunal; 25 per cent originated from ombudsman cases; and 3 per cent were referred by the Administration. The remaining 3 per cent of mediated cases were referred by miscellaneous sources across the Organization.

28. Mediation cases are often complex and could involve extensive multiparty negotiations. Mediation is applicable for diverse issues, including interpersonal and evaluative relationships; contractual status and terms of separation, which often entail emotional and sensitive matters; and compliance and disciplinary matters. In 2012, the Mediation Service intervened in cases involving groups and multiple parties.

29. Confidentiality is a core principle and an internationally established standard of the ombudsman and mediation practices. Disclosure by the Office of any information relating to settlements reached through mediation, or matters discussed in mediation or ombudsman case proceedings, would constitute a breach of confidentiality impermissible by the standards of those practices and would ultimately contribute to undermining the trust and confidence attached to the

processes by the parties. The only exception to the privilege of confidentiality is in situations where there appears to be imminent risk of serious harm.

30. The confidentiality of the mediation process — including the agreement to participate in mediation, in discussions held during mediation and in settlements reached at the end of the proceedings — is essential to safeguarding the identity of visitors. Confidentiality remains one of the key guarantees that mediation offers and is a tool that serves to encourage the use of the informal channel for dispute resolution; for parties to engage in honest dialogue aimed at consensus-building; and for the realization of the many benefits of informal resolution (including creative problem-solving and building trust among parties). Any disclosure, formal or informal, of matters related to mediation cases risks being an impediment to encouraging informal dispute resolution within the Organization, thereby eroding the value of mediation. It could also damage the reputation of the Office within the Organization.

31. During the reporting period, an independent, external panel of experts conducted a review of the role and operations of the Office. The panel focused on the principle of confidentiality in informal dispute resolution and the auditability of the Office database. In that regard, it strongly encouraged organizational support to protect the confidentiality of the mediation process, settlement agreements and the case database.

C. Regional engagement

32. In 2012, the Office conducted regular and ad hoc interventions (upon request) for staff and management of the following organizations, bodies and missions located at duty stations that do not have a resident ombudsman: United Nations Stabilization Mission in Haiti; United Nations Interim Force in Lebanon; United Nations Interim Administration Mission in Kosovo; United Nations Integrated Mission in Timor-Leste; United Nations Logistics Base at Brindisi, Italy; United Nations Operation in Côte d'Ivoire; United Nations Mission in Liberia; United Nations Peacekeeping Force in Cyprus (UNFICYP); and United Nations Mission for the Referendum in Western Sahara. Visits were made to the remote locations of Juba and Rumbek, South Sudan, in association with the United Nations Mission in South Sudan (UNMISS); Khartoum, El Fasher and Nyala, the Sudan, in association with the African Union-United Nations Hybrid Operation in Darfur (UNAMID); Matadi, Kalemie, Lubumbashi, Goma and Bukavu, Democratic Republic of the Congo, and Kigali, in association with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO); the International Tribunal for the Former Yugoslavia; International Criminal Tribunal for Rwanda; and the United Nations Assistance to the Khmer Rouge Trials. In addition, visits were undertaken to the regional offices of the United Nations Environment Programme (UNEP); the Economic and Social Commission for Western Asia; Economic Commission for Africa (ECA); Economic and Social Commission for Asia and the Pacific (ESCAP); and the United Nations Office on Drugs and Crime (UNODC).

33. Intervention was done directly through in-person contact and remotely by telephone, online media, videoconference and Skype. In-person intervention is crucial in the field of conflict resolution. It provides the human element essential for building trust and confidence in the process and serves to make the Office more accessible as

a forum. Staff members continue to highlight the need for greater representation of the Office in respect of an in-person presence, in particular in the field. In 2012, in-person intervention was provided through its presence at Headquarters and at major duty stations, and through the mission visits described above.

34. Mission visits are conducted in consultation with mission management and related staff associations and are often multipurpose in scope, comprising case intake and resolution; outreach activities and the promotion of conflict competence; and stakeholder engagement and partnering.

IV. Outreach activities: building partnerships for conflict competence and conflict prevention

35. The outreach efforts of the Office are aimed at promoting the informal resolution of workplace concerns. They focus primarily on building substantive skills in conflict management and reinforce the goal to resolve disputes early and at the lowest possible level. Efforts include developing conflict competence aimed at the timely and effective management of workplace concerns; building greater awareness about the presence and value of the breadth of services offered by the Office; and establishing working partnerships with stakeholders.

A. Enhancing conflict competence

36. Contributing to the development of conflict competence in the Organization is one of the several ways in which the Office works to encourage and empower staff to informally resolve disputes. Conflict competence is essential for effectively addressing workplace disagreements early, thereby preventing them from escalating into intractable conflicts. Preventive approaches to conflict resolution not only help to mitigate downside risks to the Organization but also offer opportunities to transform potentially volatile situations into ones of mutual understanding.

37. In 2012, a series of skills development events were organized by the Office at Headquarters, including interactive workshops on conflict management for staff in general, and for areas such as the Field Personnel Division of the Department of Field Support. The regional ombudsman in Nairobi gave a presentation at a team-building exercise on change management and defusing conflict to a section of the Division of Conference Services at the United Nations Office at Nairobi and at several workshops held at the United Nations Human Settlements Programme (UN-Habitat). The regional ombudsman in Santiago, in cooperation with the Training Section of the Economic Commission for Latin America and the Caribbean (ECLAC), developed a presentation on effective conflict management, which has been offered on a division/unit basis. A workshop on topics such as "Dealing with difficult colleagues" and "Engaging in difficult conversations" was conducted by the regional ombudsman in Bangkok. The Office also conducted a series of pilot workshops on conflict competence at the United Nations Office at Nairobi, ECA, the International Tribunal for the Former Yugoslavia and the United Nations Interregional Crime and Justice Research Institute. The United Nations Ombudsman gave a keynote speech on conflict resolution and conducted workshops at the World Food Programme on collaborative negotiation.

B. Outreach efforts to raise awareness about informal conflict resolution

38. In 2012, the Office also focused its outreach efforts on raising awareness about the scope and benefits of the services it offers. Accordingly, efforts targeted a diverse audience, including staff members at large; senior and executive management; and relevant departmental units, staff associations and other groups within the Organization. The outreach strategy employed various media formats, including traditional in-person interaction with the media, technology-based media and print media.

39. The Office conducted informational sessions both in person and remotely across the Organization's operational locations, including during induction sessions for new staff. Informational sessions were conducted at UNEP, UN-Habitat, and the Joint Medical Service and the Office of the Staff Council at the United Nations Office at Nairobi; UNAMID; UNMISS; MONUSCO (new staff induction); the Security and Safety Section of ESCAP (management and staff); ECLAC (new staff induction); and the Secretariat and agencies of the United Nations system during the Common Induction Programme.

40. Informational sessions were also conducted in collaboration with other relevant actors in the Organization, including sessions aimed specifically at providing incentives for informal dispute resolution. The informational sessions comprised workshops on the internal justice system in collaboration with the United Nations Dispute Tribunal in Nairobi; a joint collaborative project with the Staff Counseling Unit, Conduct and Discipline Unit, Field Staff Union, National Staff Association and Office of Internal Audit Services in Kinshasa; several briefings to managers on the administration of justice, in particular on mitigating litigation risks, organized with the Legal Unit of Human Resources Management Service in Geneva; briefings on the administration of justice held in Geneva for managers at the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Conference on Trade and Development (UNCTAD), and the United Nations International Strategy for Disaster Reduction; and a briefing session for the Junior Professional Orientation and Development Programme, organized by the Staff Development and Learning Section in Geneva. The Office participated in workshops held by the Conduct and Discipline Unit in the field and at Headquarters, and in the United Nations Secretariat Human Resources Network Conference on the theme "Towards a global, dynamic and adaptable workforce", held in New York from 4 to 8 June 2012.

41. During the reporting period, the Office encouraged the use of the informal system for the resolution of workplace disputes through presentations at the town hall meetings of the United Nations Office at Nairobi, at meetings of the Division of Conference Management in Geneva and Kinshasa and at introductory and ongoing meetings with broad-based stakeholders. Meetings were held with the high-level management of various departments at ECA; the Economic Commission for Europe (ECE); UNMISS; UNAMID; the Office for the Coordination of Humanitarian Affairs; the International Organization for Migration; the Regional Service Centre at Entebbe, Uganda; MONUSCO; UNEP; OHCHR; UNODC; the United Nations Office at Nairobi; ECLAC; and ESCAP.

42. Marking the tenth anniversary since the establishment of the Office in 2002, the Permanent Mission of Sweden to the United Nations hosted an expert panel discussion on the theme "Imagination and integrity: mediation in building institutions" followed by a commemorative event in New York. Events were also held at some regional offices.

43. The website of the Office continued to be an important tool for reaching out to staff and for sharing informational material about conflict resolution services. In 2012, the website was visited an average of 2,500 times per month, compared with an average of 2,100 times per month in 2011, constituting an increase of 13 per cent.

44. The Office undertook initiatives to promote its visibility and sustained presence online through articles and interviews published on local Intranet sites at field locations and on iSeek, including the UNFICYP newsletter, *The Blue Beret*; an interview published in the local Geneva newsletter, *UN Special*; and an interview with the Ombudsman on personal accountability published on iSeek as part of an initiative led by the Department of Management on accountability.

45. The Office developed a joint brochure for the Secretariat, the funds and programmes, and UNHCR. The brochures, together with jointly designed posters were widely distributed and strategically placed across the field operations and Headquarters of the Secretariat's. In addition, a commemorative booklet was produced and distributed during the event to commemorate the tenth anniversary of the establishment of the Ombudsman function in the Secretariat (see para. 42 above). Fact sheets and handouts were used regularly as part of the outreach strategy of the Office. A series of educational articles, including on such topics as engaging in difficult conversations, constructively conveying and receiving feedback and the value of apologies, were disseminated to promote conflict competence.

C. Partnerships and stakeholder engagement

46. During the reporting period, the United Nations Ombudsman continued to engage with stakeholders at the senior level, through participation in meetings of the Management Performance Board; the Management Committee; and the Staff-Management Committee held in Arusha, United Republic of Tanzania, in 2012.

47. Participation in high-level meetings allows the United Nations Ombudsman to engage directly with senior managers at the strategic level. Such engagement is crucial to sharing the observations and recommendations made by the Office in the course of its work and to understanding the challenges faced by the administration and senior management in relation to them.

48. In 2012, the United Nations Ombudsman continued to have direct access to the Secretary-General, Deputy Secretary-General and Chef de Cabinet to discuss measures to develop conflict competence and promote informal resolution in the Organization.

49. In addition, meetings with management and staff representatives at Headquarters and in the field formed an integral part of the partnerships formed by the Office. In 2012, ombudsmen met with management and administrative units at UNEP, UN-Habitat, ECA, the United Nations Office at Nairobi, the International Criminal Tribunal for Rwanda, the International Trade Centre (ITC), the Ethics Office, UNCTAD, OHCHR, the United Nations International Strategy for Disaster Reduction,

the United Nations Office at Geneva, and ECE; with mission management at UNAMID, UNMISS and the United Nations Interim Security Force for Abyei; and with the Organizational Development and Staffing Unit at ESCAP. Meetings were held with staff representatives at ITC and at the duty stations where regional ombudsman are based; the National Staff Association at UNAMID, UNMISS and MONUSCO; the Field Staff Union at MONUSCO and at the Entebbe Support Base. During its participation in the Staff Management Committee meeting held in Arusha in June 2012, the Office offered to assist with the development and delivery of conflict management training modules for staff representatives. Accordingly, a pilot was conducted at the Hague, the Netherlands, in partnership with the staff representatives at the International Tribunal for the Former Yugoslavia.

50. In 2012, the Mediation Service participated in a plenary meeting of the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal held in Nairobi.

Office of Human Resources Management: staff development

51. The Office continued to collaborate with the Office of Human Resources Management in its training activities related to mediation, negotiation and informal conflict resolution.

Office of Human Resources Management: Medical Services Division

52. The Office and the Medical Services Division have recognized the potential for strengthening the collaboration between the two entities beyond a common involvement in individual cases.

53. Conflict is inherently stressful, and poorly managed stress affects staff health and well-being. In recognition of this, the Office has sought the collaboration of the staff counsellor community. In 2012, the Office and the Medical Services Division discussed the creation of a working group to help various agencies of the United Nations system to address issues related to health and well-being and took joint initiatives to promote a pilot initiative for the inception of proposals in that regard.

Department of Field Support: Field Personnel Division

54. The Office continued its ongoing interactions with the Field Personnel Division, in view of the large number of cases from field operations. The monthly meetings included feedback on procedural justice and communications in mission downsizing. The feedback has been incorporated into the workshops and communication materials of the Department of Field Support.

Office of Staff Legal Assistance

55. The Office of the United Nations Ombudsman and Mediation Services continued to work with the Office of Staff Legal Assistance on cases requiring legal counsel and on a number of matters both at Headquarters and in the field, which were resolved informally. The option of referring cases to the Office of Staff Legal Assistance provides a useful step for staff who are interested in exploring informal resolution but who need to understand the legal framework of their cases. Since the Office of the Ombudsman does not render legal advice, access to independent and confidential legal advice from the Office of Staff Legal Assistance assists staff

members in their decision-making process. It is particularly helpful to have legal officers of the Office of Staff Legal Assistance, with the consent of their clients, participate in mediation proceedings.

External partnerships

56. Partnerships with organizations in the broader United Nations system are essential in order to draw synergies and harmonize practices in a complex and dynamic environment. In that context, the Office engages with its fellow ombudsmen and mediators of the United Nations and related international organizations. The United Nations Ombudsman serves as the standing chair of the United Nations and Related International Organizations group. The 10th annual meeting of ombudsmen and mediators of the group was held in Santiago in January 2012 and was organized under the auspices of ECLAC and the regional office of the United Nations Ombudsman and Mediation Services in Santiago. The meeting was attended by ombudsmen from the Secretariat, the funds and programmes, and UNHCR; the World Food Programme; the International Labour Organization; the International Civil Aviation Organization; the World Bank Group; the International Monetary Fund; the Pan American Health Organization; and the African Development Bank.

57. The Mediation Service of the Office of Ombudsman continued to partner with the World Bank to maintain a roster of on-call international mediators to support the work of the regional ombudsmen who serve staff in Latin America and the Caribbean, Africa, the Middle East and North Africa, Europe and Central Asia, South Asia and East Asia, and the Pacific. In 2012, the Office, in partnership with the World Bank, conducted a training programme for candidates on the roster of on-call mediators to raise awareness about the practice of mediation in the United Nations context.

V. Root causes of conflict: systemic issues

A. Identification of issues and reporting

58. In paragraph 26 of its resolution 67/241, the General Assembly welcomed the recommendations made by the Office of the United Nations Ombudsman and Mediation Services to address systemic issues.

59. A systemic issue is characterized by the existence of the issue, independent of the individuals involved. The conflict stems from issues that are more deeply rooted or from existing gaps in the Organization, such as those found in its policies, procedures, practices and structure, all of which influence organizational culture.

60. The identification of systemic issues is informed by the cases and issues brought forward by staff; issues identified during interactions with the parties involved in conflicts; ongoing dialogue with stakeholders; and direct observation. In its discussions, the Office safeguards the confidentiality of its visitors.

B. Selected cross-cutting issues

61. The present report provides an update on the issues of performance management, and investigations and disciplinary procedures, while placing the latter in the wider context of conduct management. It also addresses issues regarding the

Organization's response to staff with service-related injuries, and staff with partial medical clearance to serve. The office recognizes the ongoing efforts of the Organization to address such issues and hopes that the report will contribute to continued organizational efforts for improvement.

Performance management: update

62. In his previous report on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/67/172), the Secretary-General discussed the performance management matters that concern all staff and managers. Staff concerns about performance management include lack of managerial guidance and lack of acknowledgement of efforts; inadequate bidirectional engagement in the process; and perceived abuse and injustices in evaluation. Concerns expressed by managers include insufficient structural and procedural support in providing open and honest feedback to supervisees.

Ongoing efforts and opportunities

63. The Office continued to engage with staff and management representatives in respect of the impact of performance management on workplace conflicts. It provided upward feedback to relevant senior officials; continued its engagement with the Office of Human Resources Management; and participated at a manager's forum, meetings of the Management Performance Board and at the human resources network conference.

64. The Office delivered interactive workshops to staff in general and to such entities as the Department of Field Support; delivered presentations in the Induction Course for Senior Leaders on the linkages between performance management and conflict in the context of the system of administration of justice; and provided input into the Organization's training modules, with a view to effectively addressing performance management-related conflict. It engaged with the Department of Management and contributed to the lessons-learned guide for managers in respect of performance management.

65. The Office recognizes the considerable efforts being made by the Office of Human Resources Management in respect of performance management, including the continuous enhancement of the tools available in that area. It notes that while performance management is a responsibility shared between managers and staff, the tone is often set at the top.

66. In that context, it welcomes the new induction course for senior leaders as a potential vehicle for strengthening the management culture. It also takes note of the revised terms of reference of the Management Performance Board (see ST/SGB/2013/2, para. 1.1(d)), which would conduct yearly reviews of the performance management and development system. That approach has the potential to systemically address performance management issues at the highest level.

Investigations and disciplinary cases: update

67. The issue of investigations and disciplinary cases has been raised by the Office in previous reports of the Secretary-General.[2] Despite recognized efforts by the Organization, fielding a prompt investigation in response to every formal complaint that merits investigation appears to remain a challenge. Both staff and managers have raised concerns to the Office in that regard.

Ongoing efforts and opportunities

68. In addition to ongoing efforts to improve investigation processes, there is opportunity to examine allegations of misconduct in the larger context of conduct management. The framing provides for a wider systemic approach to fostering respectful workplace behaviour.

69. In 2012, the Office collaborated with conduct and discipline units at Headquarters and in the field. It found that many cases of alleged harassment, abuse of authority or discrimination might have benefited from early and informal resolution, thereby preventing escalation to formal investigation channels.

70. The Office also found that the framing of issues and the fear of reprisal were potential obstacles to informal resolution.

71. The way in which a problem is framed determines the forum and manner in which it is addressed. Very often, colleagues, managers and other "first responders" influence the framing of issues, in particular in the early stages of a conflict (see A/67/172, paras. 120 and 121). Framing issues related to abrasiveness or incivility as harassment or abuse of authority can have an impact on the manner in which they are addressed.

72. In dealing with stakeholders, the Office has observed a somewhat persistent belief that managerial involvement should or could take place only when there are formal complaints. In reality, prompt managerial action in conflict situations or early referral to relevant third parties could prevent escalation to formal investigations. There is opportunity to develop an understanding at all levels about the role of staff and management in early and informal resolution, and to shift the discourse from punitive action to fostering a dialogue-oriented work climate.

73. The Office often deals with staff members who are comfortable discussing issues relating to disrespect, poor communication or abrasiveness in confidence but who are unwilling to allow ombudsmen to take up matters, citing the fear of reprisal, indicating that this may be a factor that keeps staff from seeking informal resolution, leaving matters to be escalated to formal processes.

74. There is opportunity for managers to demonstrate their support for informal conflict resolution, to encourage their staff to seek neutral third-party assistance early on and to constructively engage with the Office when requested. There is opportunity for the Administration to clarify that retaliation against a staff member seeking assistance from any support made available to them by the Organization, including the Office of the Ombudsman, will not be tolerated.

[2] See A/64/314, paras. 72 and 73; A/65/303, para. 83; A/66/224, paras. 82 and 83; and A/67/172, paras. 140-146.

Service-incurred injuries and illness

75. In 2012, the Office also handled cases related to compensation claims for service-incurred injuries and illness. The cases involved issues such as the length of time it took the Organization to process claims for entitlements designed to mitigate the loss of capacity to work, or special medical expenses and insurance claims.[3] In working with relevant stakeholders, it became apparent that the various steps necessary to substantiating and approving a claim, across departments and geographical locations, made the system structurally vulnerable to delays. Additionally, focal points were limited to working within their departmental responsibilities, and the overall requirements necessary for processing claims were not coordinated. It appears that the expansion of peacekeeping, with the concomitant additional cases of this nature, has not been mirrored in the set-up of the Advisory Board on Compensation Claims at Headquarters and of the capacity of the Medical Service to provide the required expert input.

Ongoing efforts and opportunities

76. The Office has been working with stakeholders, including the Department of Field Support, the Department of Management and the Emergency Preparedness Support Team in the Office of Human Resources Management with respect to the issue. In some instances, with the consent of staff, case meetings have been held with all stakeholders concerned, which have proved to be a collaborative way of working in the interest of both the individual concerned and the Organization. Work is ongoing in respect of training, raising awareness and developing guidelines and checklists, based on consultations across departments.

77. A shift from the transactional processing of benefit claims to more inclusive attentiveness paid to injured or ailing staff members could represent a caring approach.[4] In addition, it could reduce the probability of disputes escalating into the need for formal channels, including litigation, which could have considerable legal, reputational and financial repercussions. It is understood that checks and balances are needed where the Organization's finances are concerned. Such checks and balances, however, need to be appropriately funded or they will control overspending on the one hand and generate costs on the other. A claim that is deliberated upon for years is likely to cost the Organization more in administrative costs and legal exposure than if it had been handled more expeditiously.

Sick leave, inability/partial ability to perform functions

78. The Office has worked with visitors on issues of sick leave, the inability or partial inability to perform the functions of the post for health reasons, and the implications of partial medical clearances. The systemic issue that emerged was the way in which the various elements fit together and how they are coordinated across the system. In and of themselves, the individual elements do not seem problematic, and at first glance they are covered by sick leave or a disability pension.

---

[3] Interrelated issues involved compensation for service-incurred injury or illness; disability pension; insurance claims; and after-service-health insurance.

[4] Such an approach could link to developments with respect to return-to-work policies in the framework of an occupational safety and health policy. See the note by the Secretary-General transmitting his comments and those of the United Nations System Chief Executives Board for Coordination on the management of sick leave in the United Nations system (A/67/337/Add.1).

79. For example, a partial medical clearance, even if it may be the most appropriate medical finding, is difficult for the system to translate into an appropriate administrative action. A traumatic event occurring at a mission, for example, may, in the opinion of a medical expert, render a staff member unable to serve in the same location for reasons of mental health. However, there may be no impediment to discharging the staff member to perform similar functions at another location. When there is a suitable post available elsewhere and the staff member can properly compete in the selection process, there are no concerns. However, where placement would potentially violate the right of other staff to be considered for the post, there is a lacuna with respect to the status, rights and social security of the staff member with the partial medical clearance who, for health reasons, can no longer serve in the original assignment. In such situations, not only can the staff member no longer perform the original functions, but he/she cannot receive a disability pension either when the sick leave entitlements are exhausted, owing to the partial clearance for service.

80. Additionally, it is unclear what efforts the Organization should or could be reasonably requested to make to accommodate such situations.

81. In the context of the evolving discussion on sick leave management (see A/67/337), there is opportunity to review the impact of the work climate and conflict situations on absenteeism and sick leave-related stress.

Ongoing efforts and opportunities

82. The Office collaborated with stakeholders in respect of the linkage between medical opinions and resulting administrative consequences. Addressing the missing links provides a short-term opportunity to streamline processes and create efficiencies while also supporting affected staff members. A more long-term opportunity involves the development of a return-to-work policy that benefits both staff and the Organization.[5]

Accommodation for persons with disability

83. The Office handled cases where staff wanted to continue working, although the level of their ability to do so had changed. In the absence of organizational guidance on what constitutes reasonable accommodation, such cases were negotiated or mediated on a case-by-case basis.

Ongoing efforts and opportunities

84. The Office recognizes the efforts that are under way to issue a framework on accessibility for persons with disabilities, including reasonable accommodation. There is opportunity to provide related guidance to managers on the efforts the Organization can be reasonably expected to make to accommodate the needs of staff with disabilities. This could potentially show the inclusiveness of the Organization as an employer and ensure equal treatment for cases that are similar in nature.

[5] The recommendation to design and implement a return-to-work policy was contained in document A/337/Add.1. The recommendation was supported by the organizations of the United Nations system.

VI. Incentives for the informal resolution of conflict

A. Value of informal conflict resolution

85. In 2012, the utilization rate of the Office was 2.5 per cent of all staff: specifically, 3.2 per cent for the Secretariat, 1.3 per cent for the funds and programmes, and 1.6 per cent for UNHCR.[6]

86. The number of cases received for informal resolution is not indicative of the total exposure of the Organization to the impact and risks of conflict, which can be far-reaching even with a single incidence of unmanaged conflict; nor is it indicative of the pervasiveness of conflict within the Organization, which often remains hidden owing to several factors — including the fear of reprisal, a breakdown in communication, cultural factors and distrust — and may not be easily assessed.

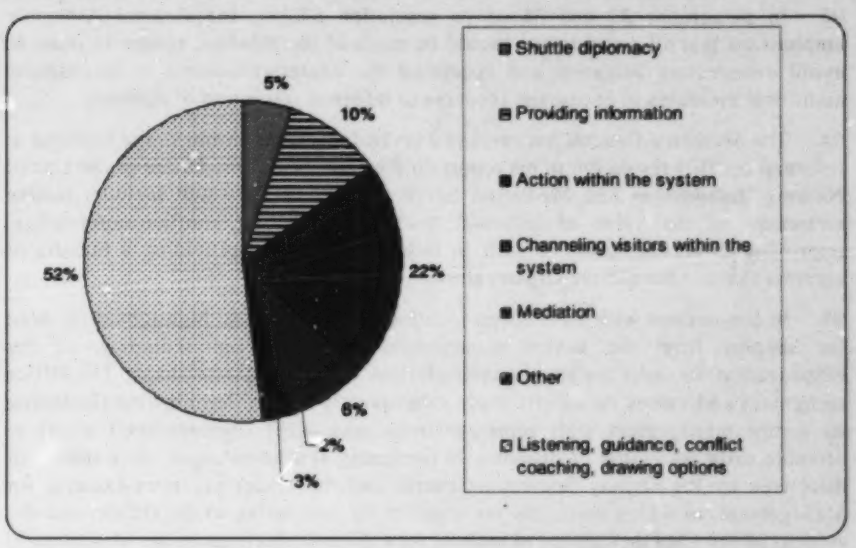
87. Hidden conflict can corrode the work environment and is linked to lowered morale and motivation, health issues, absenteeism, presenteeism, and damaged relations, and affects work output. In that regard, timely resolution has restorative returns. Through its outreach and canvassing efforts, the Office has promoted conflict competence aimed at empowering staff to effectively address concerns and has encouraged the Organization's workforce to come forward with wide-ranging concerns.

88. It is important to note that there may not be rules, regulations, established procedures or specific administrative actions for many concerns and dilemmas faced by staff, meaning that such instances could not be addressed in a formal forum. In general, and especially for such cases, the Office continues to provide a forum that can be accessed by staff for any kind of concern.

89. Listening, empathy, compassion, calibrating destructive emotions and fostering positive emotions, and encouraging dialogue and communication are only some of the many ways the Office adds value in the concerns it addresses — value that is difficult to quantify. Examples of client feedback serving as testimony to the value of those services, include the following: "I could never express how grateful I feel that institutions such as yours exist in our system"; "I am relieved that now we can close this chapter and I can focus on my new assignment without dealing with this legacy any longer"; "A small word of thanks for taking time to meet with me and to listen to my concerns. I appreciate your patience"; and "Your advice to have a discussion with the supervisor was very useful and successful". The services provided by the Office in 2012 are represented in figure VI.

[6] The estimates are based on information contained in document A/67/329. The total number of staff for the Secretariat, the funds and programmes and UNHCR is estimated at 74,154.

Figure VI
Services provided by the Office of the Ombudsman to visitors in 2012



90. Informal resolution is participatory in nature, allowing parties in conflict to have a voice, representation and a high degree of control over the processes and decisions affecting them. As such, solutions and agreements reached in informal resolution have substantial durability and often prevent the escalation of issues, including escalation to litigation. In informal dispute resolution, the establishment of precedents is avoided and opportunities for creative ways to resolve workplace issues are offered.

91. The Office notes that evaluating its contribution solely in quantitative terms and overemphasizing its role in reducing litigation are Organizational obstacles that could impede the progress of informal resolution. Initiatives to guide a shift towards a culture of dialogue could potentially focus on the other advantages of informal conflict resolution.

92. The informal dispute resolution channel is a key component of the Organization's accountability framework. In delivering its mandate, the Office plays a role in both institutional as well as individual accountability. As indicated by the Joint Inspection Unit in its report on accountability frameworks in the United Nations system (A/66/710), access to independent formal and informal grievance procedures inside the Organization is, inter alia, essential to rigorous accountability, and is one of the benchmarks of an effective accountability system. Within the resources available to it, the Office provides improved in-person accessibility to all staff. Owing to resource considerations, remote channels (such as e-mail, telephone, videoconference and Skype) are often used by the Office. The Joint Inspection Unit notes in its report that it is preferable when in-person access is available to staff, owing to the confidential and personal nature of information in conflict situations (ibid., paras. 128-130 and 135).

B. Update on incentives to promote informal conflict resolution

93. In paragraphs 22 and 24 of its resolution 67/241, the General Assembly emphasized that all possible use should be made of the informal system in order to avoid unnecessary litigation and requested the Secretary-General to recommend additional measures to encourage recourse to informal resolution of disputes.

94. The Secretary-General has proposed several measures to encourage recourse to informal conflict resolution in his report on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/65/303), which include: raising awareness of the value of informal resolution, building conflict competence, improving in-person access to staff in field locations and providing a breadth of services that can benefit the Organization.

95. In conjunction with the recommendations, the Office also highlighted the need for support from the senior management and staff representatives of the Organization, in order for its recommendations to take concrete shape. The Office recognizes and values the efforts made subsequently by the Organization (including its senior management staff representatives, and other organizational units) to promote early resolution of disputes. In particular, it acknowledges the issuance of directives by the Deputy Secretary-General and the Under-Secretary-General for Management, in which managers are urged to be responsive to the Office; and the support of the Chef de Cabinet to include the Office in meetings of the Management Committee and Management Performance Board. The Office reiterates the necessity of participating in collaborative efforts with the management and staff of the Organization as the quintessential means to promote a culture of dialogue and the amicable resolution of disputes.

96. The Office has made efforts in those areas on its own and in collaboration with partners and stakeholders within the Organization, as reported in the earlier reports on its activities (A/66/224 and A/67/172). As reflected in paragraphs 38 to 45 of the present report, the Office continued to raise awareness during the reporting period about the value of informal resolution and to develop conflict competence as a standard practice. It continued to provide feedback on systemic issues through engagement with stakeholders and to use in-person intervention strategically in order to provide the most effective and efficient means to prevent the escalation of conflict and mitigate the risks related thereto.

VII. The way forward

Conflict competence

97. The Office recognizes the efforts made by the Organization in developing conflict competence and continues to solicit such efforts in the way forward. In the coming years, the Office will continue to focus on the area of developing conflict competence.

Special political missions

98. As noted by the Secretary-General in his previous reports (A/67/172 and A/66/224), the Office recognizes the need for staff in special political missions to have enhanced in-person access to informal conflict resolution. The General

Assembly, in its resolution 66/237, stressed the importance of ensuring access for all staff members to the new system of administration of justice, regardless of their duty station. Observations made by ombudsmen during mission visits reflect a substantial need for greater in-person intervention in the field. The Office notes that the limited resources to cover staff in special political missions are an impediment to effective service delivery in the field.

Support for staff in hardship duty stations

99. The Office recognizes the need for staff and management to find mutually acceptable solutions to the ongoing issues of long-serving staff in hardship duty stations and stands ready to facilitate the process. The Office notes the challenges faced by staff in hardship locations and the negative impact of those challenges on the health and well-being, in particular mental health, of some staff who have served for prolonged periods of time.

Organizational change and reform

100. In the coming years, the Office will continue to support staff and managers in preparing for and managing reform and change, and the consequences thereof. Several new and ongoing initiatives, including Umoja, implementation of the International Public Sector Accounting Standards, and gender mainstreaming, will require adapting to a fast-changing environment. In that regard, the Office stands ready to support the staff and managers of the United Nations.